

FILED



8:50 am, 12/13/21

Margaret Botkins
Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

GRACE SMITH, *et al.*, and others
similarly situated,

Plaintiffs,

vs.

GOVERNOR GORDON in his official
capacity, *et al.*,

Defendants.

Case No. 21-CV-201-F

ORDER ON PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO RESPOND
TO THE SHERIDAN SCHOOL DISTRICT DEFENDANTS' MOTION TO DISMISS

Plaintiffs move for an extension of one week to respond to the motion to dismiss (ECF No. 9) filed by Superintendent Scott Stults and the Board of Trustees of Sheridan County School District No. 2 on November 19, 2021. Plaintiffs certify conferral but "have yet to have a response for an oral motion to the Court." The oral motion authorized in Local Rule 6.1 is only for requesting an extension to answer or move to dismiss. It does not apply to any other deadlines.

Under Local Rule 7.1(b)(2)(A), Plaintiffs' response was due within 14 days from the filing of the motion to dismiss, which in this instance passed on December 3, 2021. Normally, requests for extension made after the time has expired require showing the failure to act was due to excusable neglect, in addition to the good cause required for timely

requests. Fed. R. Civ. P. 6(b). However, the Court will not require excusable neglect in this instance, as federal courts prefer to determine cases on the merits. Deeming the motion to dismiss confessed for lack of timely response or showing excusable neglect is not warranted in this instance, where the delay was only one week and the case is in its earliest phase.

It is unclear from Plaintiffs' motion whether they seek one week from that deadline – which would be today – or one week from the date that they filed the motion for extension. This resulting unclarity is why Local Rule 6.1(e) requires a motion for extension to state a date certain for the requested extension of time.¹ Plaintiffs note that responses to other motions to dismiss will be due in a week, but Plaintiffs again appear to incorrectly assume they have more than 14 days in which to respond to motions. Other responses are currently due from Plaintiffs sooner than one week from their present motion.

Plaintiffs' counsel is cautioned to ensure better familiarity and compliance with the federal and local rules going forward.

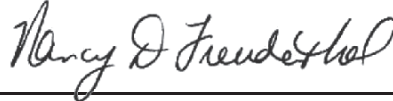
In any case, the Court GRANTS Plaintiffs until December 17, 2021 in which to respond to the Sheridan School District Defendants' motion. However, as there are seven motions to dismiss pending the Court would prefer a single, combined response to any overlapping arguments among the motions to dismiss.

Within two business days of this order, Plaintiffs SHALL confer with all Defendants regarding a briefing schedule that would permit Plaintiffs to file a consolidated response

¹ The motion for extension also does not comply with Local Rule 10.1's requirement that all filings be double spaced.

on any of the Defendants' arguments that overlap, and ideally for Defendants to file a joint reply brief on those arguments.

Dated this 13th day of December, 2021.

A handwritten signature in cursive script, reading "Nancy D. Freudenthal".

NANCY D. FREUDENTHAL
UNITED STATES DISTRICT JUDGE